HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No. 27870 of 2007

27.12.2007

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Between:

M/s Modern Tourist
Rep. by its Managing Partner,
Syed Sarwar Ali

… Petitioner

AND

The Joint Transport Commissioner and Secretary,
Regional Transport Authority,
Hyderabad & another

… Respondents

Counsel for the petitioner : Sri R.K. Jwala

Counsel for the respondent : Assistant Government Pleader for Transport

O R D E R:

This writ petition is filed for a writ of mandamus to declare seizure and continued detention of petitioner's idle contract carriage bearing R.No.AP 9 X 0044 under vehicle check report No. 2741553 dated 18.09.2007 by respondent No.2 as arbitrary and illegal. The petitioner has sought for a consequential direction to the respondents to release its vehicle.

The vehicle check report, under which the petitioner's vehicle was seized, contains the following alleged offences/irregularities:

1. Permit not produced and found plying without permit.
2. Vehicle found plying without tax for Q.E. 30.09.2007.
3. As per physical inspection of the vehicle the seating capacity is 50 in

all. But as per the RC, seating capacity 36 in all. Hence found alteration of the seats from 36 in all to 50 in all.

4. The above vehicle hired by the Neuland company on contract basis. P. Arun Kumar working as Deputy Manager, Neuland.

At the hearing, learned Assistant Government Pleader for Transport placed before this Court copy of show cause notice dated 18.12.2007 under which a sum of Rs.1,21,800/-, comprising Rs.59,290/- towards tax and Rs. 62,510/- towards penalty, is sought to be demanded.

Learned counsel for the petitioner very strenuously contended that the amount demanded under the said show cause notice is not legal and valid. Since the proceedings initiated by the respondents for the alleged irregularities committed by the petitioner in plying its bus are yet to be disposed of, I refrain from going into the merits of the dispute. In view of the fact that the vehicle is under seizure for more than three months, I deem it appropriate to dispose of the writ petition in the following terms:

1. The petitioner shall pay a sum of Rs. 59,290/- which is the alleged tax excluding the penalty of Rs. 62,510/- demanded in show cause notice dated 18.12.2007.

2. The petitioner shall produce all the required documents pertaining to the vehicle apart from filing an undertaking before respondent No.1 that it will not alienate or alter the condition of the vehicle and that it will produce the same as and when required in connection with the pending proceedings.

3. On the petitioner complying with conditions 1 and 2 supra, respondent No.1 shall forthwith release the vehicle to it which shall be subject to the outcome of the proceedings pending before respondent No.1.

Ordered accordingly.

As a sequel to disposal of the writ petition, W.P.M.P.No. 36449 of 2007 filed by the petitioner for interim relief is disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

27.12.2007

Note:
Issue CC in two days.
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